

EXHIBIT 1



12-2-11389-6 38949073 CICS 08-01-12

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

CASE COVER SHEET / CIVIL CASES

12 2 11389 6

Case Title Powell v DSHS Case Number _____
 Atty/Litigant Dana A Henderson Bar # 32507 Phone 206-621-8525
 Address 1500 4th Avenue, Suite 500
 City Seattle State WA Zip 98101

Please check one category that best describes this case for indexing purposes.

If you cannot determine the appropriate category, please describe the cause of action below. This will create a Miscellaneous cause which is not subject to PCLR 3

APPEAL / REVIEW

- ___ Administrative Law Review (ALR 2) *REV 6*
 ___ Civil, Non-Traffic (LCA 2) *REV 6*
 ___ Civil, Traffic (LCI 2) *REV 6*
 ___ Land Use Petition (LUP 2) LUPA

CONTRACT / COMMERCIAL

- ___ Breach of Contract (COM 2) *STANDARD*
 ___ Commercial Non-Contract (COM 2) *STANDARD*
 ___ Commercial-Contract (COM 2) *STANDARD*
 ___ Third Party Collection (COL 2) *REV 4*

JUDGMENT

- ___ Judgment, Another County (ABJ 2) *Non PCLR*
 ___ Abstract Only (ABJ 2) *Non PCLR*
 ___ Transcript of Judgment (TRJ 2) *Non PCLR*
 ___ Foreign Judgment Civil (FJU 2) *Non PCLR*
 ___ Judgment, Another State (FJU 2) *Non PCLR*

TORT / MOTOR VEHICLE

- ___ Death (TMV 2) *STANDARD*
 ___ Non-Death Injuries (TMV 2) *STANDARD*
 ___ Property Damage Only (TMV 2) *STANDARD*

TORT / NON MOTOR VEHICLE

- ___ Other Malpractice (MAL 2) *COMPLEX*
 ___ Personal Injury (PIN 2) *STANDARD*
 ___ Property Damage (PRP 2) *STANDARD*
 ✓ ___ Wrongful Death (WDE 2) *STANDARD*
 ___ Other Tort (TTO 2) *COMPLEX*
 ___ Products Liability (TTO 2) *COMPLEX*
 ___ Asbestos (TTO 2) *COMPLEX*

MISCELLANEOUS**PROPERTY RIGHTS**

- ___ Condemnation (CON 2) *STANDARD*
 ___ Foreclosure (FOR 2) *REV 4*
 ___ Property Fairness (PFA 2) *STANDARD*
 ___ Quiet Title (QTI 2) *STANDARD*
 ___ Unlawful Detainer / Eviction (UND 2) *REV 4*
 ___ Unlawful Detainer / Contested (UND 2) *REV 4*

OTHER COMPLAINT OR PETITION

- ___ Compel/Confirm Bind Arbitration (MSC2) *REV 4*
 ___ Deposit of Surplus Funds (MSC 2) *REV 4*
 ___ Interpleader (MSC 2) *REV 4*
 ___ Subpoenas (MSC 2) *REV 4*
 ___ Victims' Employment Leave (MSC 2) *REV 4*
 ___ Wireless Number Disclosure (MSC 2) *REV 4*
 ___ Injunction (INJ 2) *REV 4*
 ___ Malicious Harassment (MHA 2) *Non PCLR*
 ___ Minor Settlement/No Guardianship (MST2) *REV 4*
 ___ Pet for Civil Commit/Sex Predator (PCC2) *REV 4*
 ___ Property Damage Gangs (PRG 2) *REV 4*
 ___ Seizure of Property/Comm of Crime (SPC2) *REV 4*
 ___ Seizure of Property Result from Crime (SPR2) *REV 4*

TORT / MEDICAL MALPRACTICE

- ___ Hospital (MED 2) *COMPLEX*
 ___ Medical Doctor (MED 2) *COMPLEX*
 ___ Other Health Care Professional (MED2) *COMPLEX*

WRIT

- ___ Habeas Corpus (WHC 2) *REV 4*
 ___ Mandamus (WRM 2) *REV 4*
 ___ Review (WRV 2) *REV 4*
 ___ Miscellaneous Writ (WMW 2) *REV 4*

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

July 30 2012 2:11 PM

KEVIN STOCK
COUNTY CLERK

No. 12-2-11389-6

ORDER SETTING CASE SCHEDULE

Type of case: WDE
 Estimated Trial (days):
 Track Assignment: Standard
 Assignment Department: 12
 Docket Code: **ORSCS**

Confirmation of Service	8/27/2012
Confirmation of Joinder of Parties, Claims and Defenses	11/26/2012
Jury Demand	12/3/2012
Status Conference (Contact Court for Specific Date)	Week of 12/24/2012
Plaintiff's/Petitioner's Disclosure of Primary Witnesses	1/21/2013
Defendant's/Respondent's Disclosure of Primary Witnesses	2/18/2013
Disclosure of Rebuttal Witnesses	4/8/2013
Deadline for Filing Motion to Adjust Trial Date	5/6/2013
Discovery Cutoff	6/10/2013
Exchange of Witness and Exhibit Lists and Documentary Exhibits	6/24/2013
Joint Statement of Evidence	7/1/2013
Deadline to file Certificate or Declaration re: Alternative Dispute Resolution (PCLR 16 (c)(3))	7/1/2013
Deadline for Hearing Dispositive Pretrial Motions	7/1/2013
Pretrial Conference (Contact Court for Specific Date)	Week of 7/15/2013
Trial	7/29/2013 9:00

Unless otherwise instructed, ALL Attorneys/Parties shall report to the trial court at 9:00 AM on the date of trial.

NOTICE TO PLAINTIFF/PETITIONER

If the case has been filed, the plaintiff shall serve a copy of the Case Schedule on the defendant(s) with the summons and complaint/petition: Provided that in those cases where service is by publication the plaintiff shall serve the Case Schedule within five (5) court days of service of the defendant's first response/appearance. If the case has not been filed, but an initial pleading is served, the Case Schedule shall be served within five (5) court days of filing. See PCLR 3.

NOTICE TO ALL PARTIES

All attorneys and parties shall make themselves familiar with the Pierce County Local Rules, particularly those relating to case scheduling. Compliance with the scheduling rules is mandatory and failure to comply shall result in sanctions appropriate to the violation. If a statement of arbitrability is filed, PCLR 3 does not apply while the case is in arbitration.

Dated: July 30, 2012



Judge STEPHANIE A. AREND
 Department 12

PIERCE COUNTY SUPERIOR COURT
KEVIN STOCK
CLERK OF THE SUPERIOR COURT
TACOMA WA

12-2-11389-6

Receipt/Item #	Tran-Code	Docket-Code
2012-05-06946/01	1100	\$FFR
Cashier: TFR		

FILED
IN COUNTY CLERK'S OFFICE

AM JUL 30 2012 PM
PIERCE COUNTY WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

NOTED JAMES, ROGERS
Transaction Amount:

\$240.00

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L. E. DUSSAULT as
SUSAN POWELL, *litigation guardian ad litem for*
an incapacitated person
Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12 2 11389 6

PETITION FOR APPOINTMENT
OF LITIGATION GUARDIAN
AD LITEM PURSUANT TO
RCW 4.08.060

COMES NOW James S. Rogers, of the Law Offices of James S. Rogers, and Anne Bremner of Anne Bremner, P.C. as attorneys for Susan Powell, an adult, and pursuant to R.C.W. 4.08.060 and the Rules of Superior Court, SPR 98.16W, petitions the Court for appointment of a litigation Guardian Ad Litem for the incapacitated adult Plaintiff, SUSAN POWELL, and for authorities as follows.

I. BACKGROUND

SUSAN POWELL is an adult born October 16, 1981. SUSAN POWELL has a cause of action for injuries allegedly sustained as a result of negligence of State of Washington, Department of Social and Health Services resulting in the death of her children, C.J.P., age 7 and B.T.P., age 5. While no judicial finding of incapacity has been or is being sought at this time,

PETITION FOR APPOINTMENT OF LITIGATION GUARDIAN
AD LITEM PURSUANT TO RCW 4 08 060 - 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph 206/621-8525 Fax 206/223-8224

Petitioners herein have concerns that SUSAN POWELL may not have full capacity to represent her interests regarding that cause of action. SUSAN POWELL has been missing since December 7, 2009.

RCW 4.08.060, Guardian ad litem for incapacitated person, states in pertinent part:

“When an incapacitated person is a party to an action in the superior courts he or she shall appear by guardian, **or if he or she has no guardian**, or in the opinion of the court the guardian is an improper person, **the court shall appoint one to act as guardian ad litem**. Said guardian shall be appointed as follows:

(1) When the incapacitated person is plaintiff, upon the application of a relative or friend of the incapacitated person. . . .” (emphasis added)

II. NOMINEE FOR GUARDIAN AD LITEM

Petitioners request that attorney WILLIAM L. E. DUSSAULT be appointed as Guardian Ad Litem for SUSAN POWELL, with all of the duties, powers and authorities as are granted under R.C.W. 4.08.060, which provides that the Litigation Guardian Ad Litem serves with authority to act in the incapacitated person’s best interest during the pendency of the litigation. WILLIAM L. E. DUSSAULT has been asked to serve as Guardian Ad Litem in this matter, and has advised that he is available. WILLIAM L. E. DUSSAULT is an attorney licensed to practice in the State of Washington and has substantial background and expertise serving as Guardian Ad Litem for incapacitated persons, persons who experience disabilities, minors, and others who meet the requirements of the cited Court rule. His *Curriculum Vitae* is attached hereto as Exhibit A and incorporated herein by this reference.

The Litigation Guardian Ad Litem should be authorized to charge his services at his usual hourly fee rate at the time the services are rendered, subject to final approval by the Court. His current billing rate is \$325.00 per hour and he will utilize support staff at lower hourly rates when feasible to assist in performing his duties.

II. EXTENSION OF PRIVILEGE

Petitioners ask that the Court order that all communications between Plaintiff's counsel and the Guardian Ad Litem and Plaintiff and the Guardian Ad Litem, together with all work product and other activities of the Guardian Ad Litem, be accorded all of the same privilege and confidentiality as is given to attorney-client communications.

III. REQUEST FOR AUTHORITIES

Petitioners request that in addition to the appointment of the Guardian Ad Litem in his assigned capacities, the Court also confirm and allow the disabled adult Plaintiff to continue to appear through her counsel, James S. Rogers, of the Law Offices of James S. Rogers, and Anne Bremner of Anne Bremner, P.C.

WHEREFORE, the Petitioners ask that the Court enter an Order:

1) Finding that a Litigation Guardian Ad Litem should be appointed for SUSAN POWELL, the disabled adult Plaintiff;

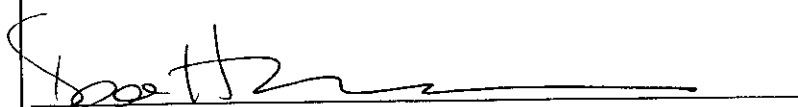
2) Finding that attorney WILLIAM L.E. DUSSAULT has the appropriate expertise and background to so serve and appointing him as Litigation Guardian Ad Litem for SUSAN POWELL, to serve with all of the duties, powers and authorities and for all of the purposes specified under R.C.W. 4.08.060;

3) Directing that the communications between Plaintiff's counsel and the Litigation Guardian Ad Litem and between Plaintiff and the Litigation Guardian Ad Litem, together with the records, work product and other activities of the Litigation Guardian Ad Litem have the same privilege and confidentiality as is accorded to attorney-client communications; and


4) Confirming, authorizing and directing Plaintiff's counsel, James S. Rogers, of the Law Offices of James S. Rogers, and Anne Bremner of Anne Bremner, P.C., to continue to appear as counsel on behalf of the disabled adult Plaintiff, SUSAN POWELL.

DATED this 27th day of July, 2012.

LAW OFFICES OF JAMES S. ROGERS


James S. Rogers, WSBA #5335
Dana A. Henderson, WSBA #32507
Attorneys for Plaintiff
1500 Fourth Avenue, Suite 500
Telephone: (206) 621-8525
Fax: (206) 223-8224
jst@jsrogerslaw.com
dah@jsrogerslaw.com

ANNE BREMNER. P.C.


Anne Bremner, WSBA #13269
Attorneys for Plaintiff
1200 Fifth Avenue
Suite 1900
Seattle, WA 98101
Telephone: (206) 486-8000
Facsimile: (206) 902-9660
abremner@freybuck.com
Bremner.Anne@gmail.com

WSBA #32507
per email approval.

PETITION FOR APPOINTMENT OF LITIGATION GUARDIAN
AD LITEM PURSUANT TO RCW 4.08 060 - 4

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph 206/621-8525 Fax 206/223-8224

Exhibit A



DUSSAULT LAW GROUP

WILLIAM L. E. DUSSAULT

CURRICULUM VITAE

Emphasizing Law for Persons with Disabilities

Education and Bar Admissions

University of Washington, BA, Political Science, History, 1969
University of Washington, Juris Doctor, Law, 1972
Admitted to Washington State Bar, September, 1972
Admitted to Federal District Court, January, 1973
Admitted to United States Supreme Court, September, 1982
Admitted to Colorado State Bar, February, 2007

Memberships, Appointments

Member, American/Washington/Seattle-King County Bar Associations
Speaker, Brain Injury Association Legal Conference*, 1987 through present
Consultant, Autism Society of America (ASA), formerly National Society for Autistic Children and Adults (NSAC):
 National Professional Advisory Board, 1978-to present
 Chairperson, National By-Laws Committee, 1984-1986
Co-Chair, King County Court 2009 Mandatory Settlement Guardian Ad Litem Training
Member, Washington State Bar Association Rules of Professional Conduct Committee
 2003 -2004
Guest lectures, Seattle University Law School National Training for Special Education
 Administrative Law Judges 2002 to 2011
Editorial Board, Journal of Positive Behavior Interventions, 1998 to 2000
Chair, National Human Rights Committee, Association for Retarded Citizens, US
 (ARC-US) 1989-1991
Member, American College of Legal Medicine (ACLM) 1997-1999
Member, and Vice President for Finance, Board of Directors, Brain Injury Association of
 America (BIA -formerly known as National Head Injury Foundation or NHIF), 1996-2001
Contributing Editor, National Structured Settlement Trade Association "White Paper"
 quarterly publication on settlements (1995-1998)
Faculty, Philip E. Heckerling Institute on Estate Planning, University of Miami School of Law,
 1995
Mentor, Seattle University School of Law, 1994-1995
Consultant, Guardianship, ARC-US, 1988
Keynote Speaker, National Institute on Special Education and the Law, 1987

Wm. L. E. Dussault
Curriculum Vitae
 Page 2 of 4

Vice-Chairperson, American Bar Association Family Law Committee On Mental Disability
 1986-1994
 Adjunct Professor, University of Washington School of Law, Disability Law 1986-1994
 Member, Future Planning and Insurance Committee, ARC-US, 1986-1988
 Member, Board of Directors of Accreditation Council for Services for Mentally Retarded and
 Other Developmentally Disabled Persons (AC MRDD), 1982-1988, Executive Committee,
 1986-1988
 Consultant, Tourette Syndrome and the Law Workshop, 1986
 Consultant, Settlement Trusts, California State Bar All Star Seminar, 1986 and 1987
 Keynote speaker, faculty and Executive Board member, Pacific Northwest Special Education
 and the Law Conference, 1984 to 2010
 Adjunct Professor, Central Washington University, Department of Special Education,
 1982/1984
 Consultant, ABA Guardianship/Limited Guardianship Report, 1981
 Faculty, University of Washington School of Nursing: Nursing, Law and Ethics, 1978-1994
 Judge Pro Tempore, Seattle Municipal Court 1977-1990
 Testimony to U.S. Senate: Handicapped Children's Protective Act 1977
 Former Counsel, The Association for Persons With Severe Handicaps (TASH) 1975-1995
 Washington State Human Rights Commission Advisory Council for the Physically, Mentally
 and Sensory Handicapped, 1974-1976
 Keynote speaker, Washington State "You Are the Expert" conferences for parents, 1976-1996
 Executive Director, Washington State Developmental Disabilities Planning Commission,
 1975-1976
 Member, Washington State Superintendent of Public Instruction Committee to review and
 revise state Special Education Regulations 1972-1998
 Governor's Committee on Employment of the Handicapped, 1972 to 1985
 Washington State Special Education Commission, 1972
 Washington State Legislative Review Committee, Special Education, 1972
 Past President-Founder, Washington Chapter, National Academy for Elder Law Attorneys
 (NAELA)
 Founder, Treasurer and Executive Board Member, COPAA (Council of Parent Advocates
 and Attorneys)
 Board Member, Disability International Foundation
 Consultant-Epilepsy Foundation of America – special needs estate planning – video preparation
 Consultant-National Association for Down Syndrome –estate planning and special education
 issues
 Former Editorial Board Member, Journal of the Association for Persons with Severe
 Handicaps (JASH)
 Vice-President, Concepts for Independent Living, National Non-Profit Corporation (CIL)
 Former President and current Board Member, Lifetime Advocacy Plus (aka LA+, formerly
 Foundation for the Handicapped), a private non-profit Guardianship and Trust agency
 for handicapped and elderly individuals
 Faculty, Emmanuel College, Cambridge University, England, International Institute on Head
 Injury and the Law
 Guest Lecturer, University of Oregon and Seattle University

Wm. L. E. Dussault
Curriculum Vitae
 Page 3 of 4

Contract Reviewer, Department of Education, Office of Special Education Programs,
 Washington DC
 Senior Rights Assistance Foundation of Washington, Advisory Board
 Consultant to Guardianship, Advocacy and Protective Services (GAPS) Program, Oregon
 Counsel, Washington Association for Persons with Disabilities
 Volunteer, Washington and Colorado State Special Olympics
 Director, Washington State Disabilities Political Action Committee (D-PAC)
 Washington State Bar Association Civil Rights Committee
 Consultant, Bay Area Brain Injury Association* California
 Consultant, Washington State Brain Injury Association*
 Appointed as Litigation or Settlement Guardian ad Litem in state or federal courts in
 WA, OR, AK, CO

Honors and Awards

Received 2012 Award of Merit by the Washington State Bar Association, its highest honor
 Selected by Seattle Magazine as one of Seattle's top financial managers, 2010, 2011
 Selected by Washington Law and Politics and Butch Blum – one of four best lawyers in
 Washington State, 2003
 Selected as one Washington's Best Lawyers, Washington Law & Politics 1999-2009
 Life Member, National Registry, Who's Who 2001 Edition
 Selected as one of Seattle's Best Lawyers, Seattle Magazine, 2001 issue
 Selected as Honored Member, National Directory, Who's Who, 1994

Authorship

Co-Author, RCW 28A.13 Washington State Mandatory "Education for All" Law requiring
 free appropriate public education for all children with disabilities, 1970
 Author, 1975-1977 Washington State Limited Guardianship Act, RCW 11.88 and 11.99;
 participant on revisions, 1990/1991
 Author, Comprehensive review of all Washington State laws affecting disabled persons (over
 500 pages of proposed legislation, with approximately 200 pages now enacted)
 Co-Author, Initial Washington State Regulations on Special Education
 Originating author-testamentary special needs trust-1973
 Originating author-litigation special needs trust-1976
 Co-Author OBRA'93 42 USC 1396p(d)(4)(a)
 Authored Northwest Mutual Insurance Co. planning booklet on planning for disability
 Chapter author – Legal Issues in Traumatic Brain Injury Rehab – Mark Ashley editor
 Author, Best of CLE: Planning for Disability - 1985
 Author, "Wills and Trusts - Future Planning Guide for the Parents and Families of Persons With
 Disabilities" - 1984
 Author, "Establishment and Operation of the Settlement Trust", 1988, and as amended

*This organization, which has national and state chapters, was formerly known as the Head Injury Foundation
 ("HIF" - National Head Injury Foundation or NHIF, Washington State Head Injury Foundation or WasHIF, etc)

Wm. L. E. Dussault
Curriculum Vitae
Page 4 of 4

Co-Author, "How to Provide for Their Future", ARC-US
Author, Future Planning Guide for the Parents and Families of Persons with Disabilities,
Washington ARC Trust Fund and The Foundation for the Handicapped
Author, Numerous Law Review Articles, book chapters, seminar materials, popular articles,
etc., concerning:
Malpractice and ethical issues in personal injury settlements
Special Needs Settlement Trusts
Guardianship, Protective Services for the Disabled and the Elderly;
Special Education
Law and the Disabled
Wills and Trusts for individuals with Disability and Family
Informed Consent
Ethics and Research with Human Subjects
Advocacy
Government Benefits
Presentations on Catastrophic Personal Injury Case Settlements – Ethics and management
devices, National AAJ - WA, CA, UT, TX, OH, MT, CO, LA ,MI -AAJ formerly Trial
Lawyers Associations and Defense Research Institute

Sample Agency Consultations

State of Washington Superintendent of Public Instruction
State of Washington Developmental Disabilities Planning Council
State of Washington Protection and Advocacy Agency
State of Washington Association for Retarded Citizens
State of Washington Developmental Disabilities Residential Service Association
State of Washington Coalition for Special Education
State of Oregon Association for Retarded Citizens
State of Oregon Division of Mental Health
State of Montana Developmental Disabilities Council
State of North Dakota Department of Education
State of Kansas Department of Education
State of Colorado Department of Education
State of Tennessee Protection and Advocacy Agency
Northwest Association of Rehabilitation Industries

Other

Founder and senior shareholder, William L. E. Dussault, P.S., dba the Dussault Law Group
2722 Eastlake Avenue East, Suite 200, Seattle, Washington 98102-3143
Telephone 206-324-4300 FAX 206-324-3106 General Email: Bus@dussaultlaw.com
Colorado Office Telephone 970-887-3061 FAX 970-887-1360

Rev 6-2012



FILED
IN COUNTY CLERK'S OFFICE

AM JUL 30 2012 PM
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT *as GAL for*
SUSAN POWELL,
an incapacitated person
Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12 2 11389 6
ORDER APPOINTING LITIGATION
GUARDIAN AD LITEM PURSUANT TO
RCW 4.08.060 AND GRANTING
AUTHORITIES

THIS MATTER having come regularly before the Court upon the Petition of James S. Rogers, of the Law Offices of James S. Rogers, and Anne Bremner of Anne Bremner, P.C. as attorneys for Susan Powell, a disabled adult, and the Court having reviewed said Petition and the attachment thereto, having reviewed the evidences presented by counsel, and being fully advised in the premises, now, therefore, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

- 1) A Litigation Guardian Ad Litem should be appointed for SUSAN POWELL, the disabled adult Plaintiff;
- 2) Attorney WILLIAM L.E. DUSSAULT has the appropriate expertise and background and is hereby appointed as Litigation Guardian Ad Litem for SUSAN POWELL, to

PETITION FOR APPOINTMENT OF LITIGATION GUARDIAN
AD LITEM PURSUANT TO RCW 4 08.060 - 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph 206/621-8525 Fax 206/223-8224

1 serve with all of the duties, powers and authorities and for all of the purposes specified under
 2 RCW 4.08.050/060;

3 3) All communications between Plaintiff's counsel and the Litigation Guardian Ad
 4 Litem, and all communications between Plaintiff and the Litigation Guardian Ad Litem,
 5 together with the records, work product and other activities of the Litigation Guardian Ad Litem,
 6 are hereby granted all the same privilege and confidentiality as is accorded to attorney-client
 7 communications;

8 4) The Litigation Guardian Ad Litem is authorized to bill for his services at his
 9 current hourly rate at the time of the services, subject to final approval by the Court. WILLIAM
 10 L. E. DUSSAULT's current billing rate is \$325.00 per hour; and

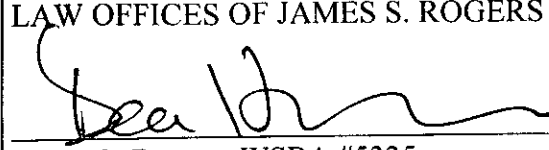
11 5) Plaintiff's counsel, James S. Rogers, of the Law Offices of James S. Rogers, and
 12 Anne Bremner of Anne Bremner, P.C. as attorneys for SUSAN POWELL, an adult, are hereby
 13 specifically confirmed, authorized and directed to continue to appear as counsel on behalf of the
 14 disabled adult Plaintiff, SUSAN POWELL.

15 DATED this 30th day of July, 2012.

16 
 JUDGE/COURT COMMISSIONER

17 Presented by:

18 LAW OFFICES OF JAMES S. ROGERS

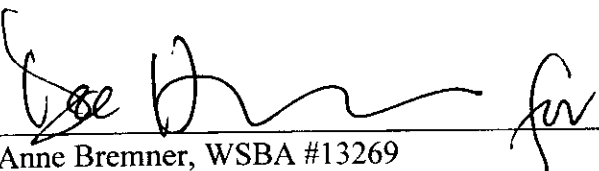
19 
 20 James S. Rogers, WSBA #5335
 21 Dana A. Henderson, WSBA #32507
 22 Attorneys for Plaintiff
 23 1500 Fourth Avenue, Suite 500
 Telephone: (206) 621-8525
 Fax: (206) 223-8224
jsr@jsrogerslaw.com
dah@jsrogerslaw.com

24 PETITION FOR APPOINTMENT OF LITIGATION GUARDIAN
 AD LITEM PURSUANT TO RCW 4.08.060 - 2

FILED
 IN COUNTY CLERK'S OFFICE
 AM JUL 30 2012 PM
 PIERCE COUNTY WASHINGTON
 BY KEVIN STOCK, County Clerk
 DEPUTY

LAW OFFICES OF JAMES S. ROGERS
 1500 Fourth Avenue, Suite 500
 Seattle WA 98101
 Ph 206/621-8525 Fax 206/223-8224

1 ANNE BREMNER. P.C.

2 
3
4 Anne Bremner, WSBA #13269
5 Attorneys for Plaintiff
6 1200 Fifth Avenue
7 Suite 1900
8 Seattle, WA 98101
9 Telephone: (206) 486-8000
10 Facsimile: (206) 902-9660
11 abremner@freybuck.com
12 Bremner.Anne@gmail.com
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for
WSBA #
32507.

PETITION FOR APPOINTMENT OF LITIGATION GUARDIAN
AD LITEM PURSUANT TO RCW 4.08 060 - 3

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph 206/621-8525 Fax 206/223-8224

August 24 2012 8:30 AM

KEVIN STOCK
COUNTY CLERK
NO: 12-2-11389-6IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTYWILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

CONFIRMATION OF SERVICE

(CS / CSSRV)

CS [] All the named defendants/petitioners/respondents have been served, have
joined or have accepted service in writing. (Check if appropriate, otherwise
check the box below.)CSSRV [XX] One or more named defendants have not yet been served.
(If this box is checked, an additional confirmation of service must be filed
pursuant to subsection (b) when service is obtained and the following information
must be provided.)

The following defendants have been served or have joined or accepted service:

No defendants have joined or accepted service.

The following defendants have not yet been served:

CONFIRMATION OF SERVICE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

Defendant State of Washington, Department of Social and Health Services has not been served.

Reasons why service has not yet been obtained:

Service has not been obtained because this is a claim against the State of Washington, and RCW 4.92.110 requires that Plaintiff file a Notice of Claim, and the expiration of 60 days after the date of filing of the claim, before an action can be commenced. The 60 days required by RCW 4.92.110 has not elapsed. The Notice of Claim was served on August 7, 2012 and the 60 days expire on October 8, 2012. The State of Washington has acknowledged the claim by letter dated August 8, 2012. The captioned matter was initiated, and cause number assigned, so that a Litigation Guardian Ad Litem could be appointed by the Court, and have the authority to sign the required Notice of Claim form. The Complaint in this matter is expected to be filed by October 30, 2012.

How service will be obtained:

Service will be obtained by serving upon the Office of Attorney General.

Date by which service is expected to be obtained:

Service is expected to be obtained by November 9, 2012

No other named defendants remain to be served.

DATED this 23rd day of August, 2012.

LAW OFFICES OF JAMES S. ROGERS

s/ Dana A. Henderson
James S. Rogers, WSBA #5335
Dana A. Henderson, WSBA #32507
Attorneys for William L. E. Dussault, LGAL
1500 Fourth Avenue, Suite 500
Telephone: (206) 621-8525
Fax: (206) 223-8224
jsr@jsrogerslaw.com
dah@jsrogerslaw.com

CONFIRMATION OF SERVICE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224



**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

WILLIAM L E DUSSAULT

Plaintiff(s)

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

No. 12-2-11389-6

**NOTICE OF NONCOMPLIANCE
AND ORDER SETTING
NONCOMPLIANCE HEARING**

Court records indicate that the attorneys and/or parties listed below have failed to comply with the Case Schedule in regard to the following item:

Confirmation of Service - Not Filed - Refer to Pierce County Local Rule 2

Deadline: 08/27/12

You are hereby ORDERED to appear for a hearing at 1:30 pm on Friday, 09/21/12 to comply with the Case Schedule, or deliver a report of the same no later than the time set for the hearing.

The court may impose sanctions or terms for failure to comply with the Case Schedule. If the court finds that an attorney or party has failed to comply with the Case Schedule and has no reasonable excuse, the court may order the attorney or party to pay monetary sanctions to the court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the court may impose such other sanctions as justice requires. See PCLR 3 (j).

Judge Stephanie A. Arend
Department 12
Phone #: 253-798-7562

DATED: 09/05/12



Copies mailed to:
James Steven Rogers
Dana A. Henderson
Anne Melani Bremner

TO:
Superior Court Clerk for Filing
(Court File Copy)

September 14 2012 3:28 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: FRIDAY, SEPTEMBER 14, 2012
TIME: 1:30 PM
NO. 12-2-11389-6

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

REPORT IN RESPONSE TO NOTICE OF
NONCOMPLIANCE

I. RELIEF REQUESTED

NOW COMES Plaintiff, by and through undersigned counsel, and submits this report in response to the Court's Notice of Noncompliance for failure to comply with the confirmation of service deadline. In this matter the Court issued a case management order when the cause number was first issued in order to appoint a litigation guardian *ad litem*, though no Complaint has yet been filed. Plaintiff is still in the sixty day (60) waiting period necessitated by RCW 4.92.110 between giving the State a Notice of Claim and when a Complaint may be filed.

II. BRIEF RELEVANT FACTS

In this case, Plaintiff's Complaint for Damages has not yet been filed. Henderson Decl. This is so because the suit will be against the State of Washington, and RCW 4.92.110 requires

REPORT IN RESPONSE TO NOTICE OF
NONCOMPLIANCE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 that Plaintiff first serve a Notice of Claim on the State's risk manager, and then wait sixty days
 2 before an action may be commenced. *Id.*, and RCW 4.92.110. The captioned matter was initiated,
 3 and cause number assigned, so that a Litigation Guardian *Ad Litem* could be appointed by the
 4 Court, and so that the LGAL could have the authority to sign the required Notice of Claim form.
 5 Henderson Decl. Upon information and belief, the opening of this cause number resulted in an
 6 automatically-promulgated case management order and trial date by the Superior Court Clerk's
 7 Office. *Id.*

8 The sixty days required by RCW 4.92.110 has not yet elapsed, and therefore, Plaintiff
 9 cannot file or serve the Complaint. Henderson Decl. The Notice of Claim was served on
 10 August 7, 2012 and the waiting period expires on October 8, 2012. *Id.* and Exh. 1 thereto. The
 11 State of Washington has acknowledged the claim by letter dated August 8, 1012. *Id.* and Exh. 2
 12 thereto. The Complaint in this matter is expected to be filed and served well before October 30,
 13 2012. *Id.*

14 Plaintiff filed an explanation of why service has not yet been completed on August 24,
 15 2012 in Plaintiff's Confirmation of Service to this effect, which was met by the Court's Notice of
 16 Noncompliance and Order Setting Noncompliance Hearing. *Id.* and Exh. 3 thereto. Plaintiff of
 17 course plans to appear at the show cause hearing to address these issues, but files this report on
 18 inability to meet pending case management order deadlines in an effort to address and remedy the
 19 fact that a court deadline has expired while Plaintiff is legally barred from moving forward and
 20 meeting these deadlines. The currently-issued case management order does not have any further
 21 deadlines until late November, 2012.

III. EVIDENCE RELIED UPON

This report is based on the records and pleadings on file herein and the Declaration of Dana A. Henderson (“Henderson Decl.”) and exhibits thereto.

IV. LAW AND ARGUMENT

As discussed above, because of the unique posture of this case, Plaintiff is unable to file the Complaint for Damages, and in turn is unable to effectuate service of same by operation of law. RCW 4.92.110 provides as follows:

Tortious conduct of state or its agents — presentment and filing of claim prerequisite to suit.

No action subject to the claim filing requirements of RCW 4.92.100 shall be commenced against the state, or against any state officer, employee, or volunteer, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim is presented to the *risk management division. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

RCW 4.92.110 (emphasis added). Plaintiff is constrained by this requirement, and though a Notice of Claim has been properly presented to the State’s risk management division, and that Notice of Claim has been acknowledged, suit is not ripe. The instant cause number needed to be opened in order to allow the LGAL to be appointed so that the LGAL could in turn, have the authority to sign the Notice of Claim and appoint counsel. Though a case management order has been promulgated upon opening this cause number, Plaintiff is legally barred from moving forward to meet those deadlines. Plaintiff submits that no other dates on the pending case management order will be impacted as there are no other deadlines until the end of November, 2012. The case management order provides sufficient time to allow the complaint to be filed and served, and to allow the State to file a Notice of Appearance and proceed with the defense of this matter. Plaintiff expects to be in a position to file the Complaint during the first week of October and serve it with a week (or two

at the most) thereafter. Plaintiff will confirm service on the State as soon as it is effectuated.

V. CONCLUSION

For the foregoing reasons, the Court should not impose sanctions or terms for Plaintiff's failure to comply with the Case Schedule.

DATED this 14th day of September 2012.

LAW OFFICES OF JAMES S. ROGERS

s/ Dana A. Henderson

James S. Rogers, WSBA #5335

Dana A. Henderson, WSBA #32507

Attorneys for William L. E. Dussault, LGAL

1500 Fourth Avenue, Suite 500

Telephone: (206) 621-8525

Fax: (206) 223-8224

jsr@jsrogerslaw.com

dah@jsrogerslaw.com

ANNE BREMNER. P.C.

s/Anne Bremner

Anne Bremner, WSBA #13269

Attorneys for Plaintiff

1200 Fifth Avenue

Suite 1900

Seattle, WA 98101

Telephone: (206) 486-8000

Facsimile: (206) 902-9660

abremner@freybuck.com

Bremner.Anne@gmail.com

September 14 2012 3:28 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: FRIDAY, SEPTEMBER 14, 2012
NO. 12-2-11389-6
TIME: 1:30 PM

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

DECLARATION OF DANA A.
HENDERSON IN SUPPORT OF REPORT
IN RESPONSE TO NOTICE OF
NONCOMPLIANCE

I, Dana A. Henderson, under penalty of perjury under the laws of the State of
Washington, declare as follows.

1. I am over the age of 18 and am competent to testify regarding the matters herein. I
make the following statements based on my personal knowledge.

2. I am one of the attorneys for the Plaintiff.

3. In this case, Plaintiff's Complaint for Damages has not yet been filed. This is so
because the suit will be against the State of Washington, and RCW 4.92.110 requires that Plaintiff

DECLARATION OF DANA A. HENDERSON IN
SUPPORT OF REPORT IN RESPONSE TO NOTICE OF
NONCOMPLIANCE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

first file a Notice of Claim, and then, only after the expiration of sixty days after the date of filing of the Notice of Claim, may an action be commenced. The captioned matter was initiated, and cause number assigned, so that a Litigation Guardian Ad Litem could be appointed by the Court, and so that the LGAL could have the authority to sign the required Notice of Claim form. It is my understanding and belief, the opening of this cause number resulted in an automatically-promulgated case management order and trial date by the Superior Court Clerk's Office.

4. Attached as **EXHIBIT 1** is a true and correct copy of Plaintiff's Notice of Claim, with the conforming stamp from The State of Washington, Risk Management Division. This Notice of Claim form was served on August 7, 2012.

5. The State of Washington has acknowledged the claim by letter dated August 8, 2012. Attached as **EXHIBIT 2** is a true and correct copy of the August 8, 2012 letter. My office has calculated that the sixty day waiting period mandated by RCW 4.92.110 expires on October 8, 2012. The Complaint in this matter is expected to be filed within a week thereafter, and served by the end of October 2012.

6. Attached as **EXHIBIT 3** is a true and correct copy of the Confirmation of Service filed by my office on August 24, 2012

DATED this 14th day of September 2012, in Seattle, Washington.

s/ Dana A. Henderson
DANA A. HENDERSON, WSBA #32507

DECLARATION OF DANA A. HENDERSON IN
SUPPORT OF REPORT IN RESPONSE TO NOTICE OF
NONCOMPLIANCE – 2

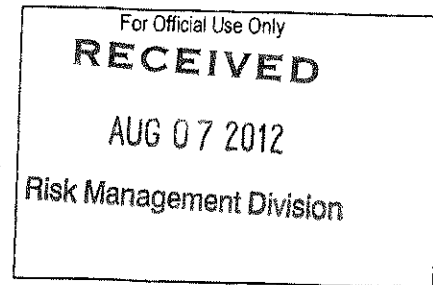
LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

EXHIBIT 1

STANDARD TORT CLAIM FORM

General Liability Claim Form #SF 210

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.92.100 and may be subject to public disclosure. Pursuant to the law, Standard Tort Claim forms cannot be submitted electronically (via email or fax).

**PLEASE TYPE OR PRINT CLEARLY IN INK**

Mail or deliver original claim to Department of Enterprise Services
Risk Management Division
1500 Jefferson Street SE, MS 41466
Olympia, Washington 98504-1466

HAND DELIVERED
-AMD

Business Hours: Monday – Friday 8:00 a.m. – 5:00 p.m.

Telephone Number: 360-407-9199

Closed on weekends and official state holidays.

1. Claimant's name: Powell, Susan (W. Dussault as LGAL) 10/16/1981

Last name
First
Middle
Date of birth (mm/dd/yyyy)
2. Inmate DOC number (if applicable): --
3. Current residential address: Unknown.
4. Mailing address (if different): c/o Dussault Law Group, 2722 Eastlake Ave. E., Seattle, WA 98102-3794
5. Residential address at the time of the incident: Unknown.
 (if different from current address)
6. Claimant's daytime telephone number: 206.324.4300 x114 (LGAL) 206.324.4300 x114 (LGAL)

Home
Business or Cell
7. Claimant's e-mail address: billd@dussaultlaw.com (LGAL)
8. Date of the incident: -- Time: ☐ a.m. ☐ p.m. (check one)
 (mm/dd/yyyy)
9. If the incident occurred over a period of time, date of first and last occurrences:
 from 12/07/2009 Time: ☐ a.m. ☐ p.m.
 (mm/dd/yyyy) (mm/dd/yyyy)
 to 02/05/2012 Time: ☐ a.m. ☐ p.m.
 (mm/dd/yyyy) (mm/dd/yyyy)
10. Location of incident: Washington, Pierce County

State and county
City, if applicable
Place where occurred

COPY

11. If the incident occurred on a street or highway:

Name of street or highway	Milepost number	At the intersection with or nearest intersecting street
---------------------------	-----------------	---

12. State agency or department alleged responsible for damage/injury:

Department of Social & Health Services

13. Names, addresses and telephone numbers of all persons involved in or witness to this incident:

See attached.

14. Names, addresses and telephone numbers of all state employees having knowledge about this incident:

See attached.

15. Names, addresses and telephone numbers of all individuals not already identified in #13 and #14 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

See attached.

16. Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

See attached.

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? Please attach a copy of the report or contact information.

See attached.

18. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

See attached


19. Please attach documents which support the allegations of the claim.

20. I claim damages from the state of Washington in the sum of \$ 20,000,000.

This Claim form must be signed by the Claimant, a person holding a written power of attorney from the Claimant, by the attorney in fact for the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signature of Claimant
William L.E. Dussault, LGAL
Or

Signature of Representative

James S. Rogers, Attorney
Anne Bremner, Attorney
Print Name of Representative
James S. Rogers
Anne Bremner

Law Offices of James S. Rogers
1500 4th Ave, #1500
Seattle, WA 98101
Phone: 206-486-1200
Email: jsr@jsrogerslaw.com

Dussault Law Group, 2722 Eastlake Ave East
Seattle, WA 98102, King County

Date and place (residential address, city and county)
James S. Rogers: 1500 4th Ave, #1500, Seattle, WA 98101
Anne Bremner: 1200 5th Ave, #1900, Seattle, WA 98101
King County

Date and place (residential address, city and county)
James S. Rogers: WSBA # 5335
Anne Bremner: WSBA #13269

Bar Number (if applicable)

Anne Bremner, PC
1200 5th Ave, #1900
Seattle, WA 98101
Phone: 206-621-8525
Fax: (206) 902-9660
Email: abremner@freybuck.com
Bremner.Anne@gmail.com

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? Please attach a copy of the report or contact information.

See attached.

18. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.


See attached

19. Please attach documents which support the allegations of the claim.

20. I claim damages from the state of Washington in the sum of \$ 20,000,000.

This Claim form must be signed by the Claimant, a person holding a written power of attorney from the Claimant, by the attorney in fact for the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.


Signature of Claimant
William L.E. Dussault, LGAL
Or

Dussault Law Group, 2722 Eastlake Ave East
Seattle, WA 98102, King County 8-7-2012

Date and place (residential address, city and county)

James S. Rogers: 1500 4th Ave, #1500, Seattle, WA 98101

Anne Bremner: 1200 5th Ave, #1900, Seattle, WA 98101

King County

Date and place (residential address, city and county)

James S. Rogers: WSBA # 5335

Anne Bremner: WSBA #13269

Bar Number (if applicable)

Signature of Representative

James S. Rogers, Attorney

Anne Bremner, Attorney

Print Name of Representative

Law Offices of James S. Rogers

1500 4th Ave, #1500

Seattle, WA 98101

Phone: 206-486-1200

Email: jsr@jsrogerslaw.com

Anne Bremner, PC

1200 5th Ave, #1900

Seattle, WA 98101

Phone: 206-621-8525

Fax: (206) 902-9660

Email: abremner@freybuck.com

Bremner.Anne@gmail.com

32

Scott A. Adams	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983.6324	DSHS Employee	DSHS employee mentioned in record
Susan Quinones	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983.6475	DSHS Employee SW2 Unit 38	DSHS employee mentioned in record
Rocky Stephenson	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.403.7935	DSHS Employee SW3 Unit 6	Found concerns of CPS referrers to be "unfounded" (11/30/11)
Sherry R. Jackson, SW		206.341.7316	DSHS Employee	DSHS employee mentioned in record
Paul H. Evans		206.341.7362	DSHS Employee	DSHS employee mentioned in record
Marykay Standish		206.341.7377	DSHS Employee	DSHS employee mentioned in record
Ashley Robinson	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983-6111	DSHS Employee SW1 Intake	DSHS employee mentioned in record
Billie Reed-Lyyski, SW	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983.6308	DSHS Employee Supervisor Unit 41	DSHS employee mentioned in record
Barbara Bofinger	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405		DSHS Employee	DSHS employee mentioned in record
Cheryl R. Rosenberg	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983.6250	DSHS Employee Forms & Records Anat. 2	DSHS employee mentioned in record
Brenda J. Severino	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983.6301	DSHS Employee Court Specialist	CHET worker
Jane Wilson	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405	253.983.6331	DSHS Employee SW3 Unit 7	DSHS employee mentioned in record
Traci D. Lerner	East Pierce County DCFS 1949 S. State St., 2nd Fl. Tacoma, WA 98405		DSHS Employee	Filled in for Forrest Jacobsen while he was out

Nancy LeMay		253.952.6216	DSHS Employee	
Arturo P. Gonzalez	Carson Elementary 8615 184th St. East Puyallup, WA 98375	253.840.8808	Principal, Carson Elementary	Referral to CPS for anti- social behavior and anti- Mormon statements
Andrea Drake	Carson Elementary 8615 184th St. East Puyallup, WA 98375	253.840.8808	Assistant Principal, Carson Elementary	Referral to CPS for potential child pornography in the home (grandfather, uncle)
Question 15 -- all persons with knowledge not already identified				
NAME	ADDRESS	TELEPHONE	POSITION	NOTES
Charles Cox	14916 114 th Ave. Ct. East Puyallup, WA 98274	253.370.8786	Maternal grandfather of deceased children	Guardians of Charles and Braden Cox after their removal from their father's care, August 2011
Judy Cox	14916 114 th Ave. Ct. East Puyallup, WA 98274	253.370.8786	Maternal grandmother of deceased children	
John S. Powell	18615 94 th Avenue Ct. E. Puyallup, WA 98375 <i>Last known address</i>	Unknown.	Paternal uncle	Lived with Josh and the boys at listed address
Michael C. Powell	431 S. 7 th St., #2620 Minneapolis, MN 55415	Unknown.	Paternal uncle	c/o Thomas J. West Krilich, La Porte, West & Lockner, PS 524 Tacoma Ave. S Tacoma, WA 98402-5416
Alina D. Powell	18615 94 th Avenue Ct. E Puyallup, WA 98375 <i>Last known address</i>	Unknown.	Paternal aunt	Lived with Josh and the boys at listed address
Steven C. Powell	Washington State Department of Corrections	See DOC	Paternal grandfather	Lived with Josh and the boys until arrest in fall 2011
Jennifer R. Graves	8688 S. 4830 W. West Jordan, UT 84081	Unknown.	Paternal aunt	Expressed concern regarding the welfare of the boys in Josh's custody
Terrica Powell	8688 S. 4830 W. West Jordan UT 84081	Unknown.	Paternal grandmother	General knowledge regarding Josh's life

QUESTION 16 – description of the cause of the injury or damages

As a direct and proximate result of the negligent failure of DSHS to monitor, investigate, and act in the children's best interest, the two Powell children suffered abuse, neglect, mistreatment and death while under the care of DSHS. The negligence of DSHS culminated in the death of the children on February 5, 2012 by their father, Josh Powell during a DSHS supervised visit.

QUESTION 17 – law enforcement contact			
Paul Pastor	Pierce County Sheriff's Dept. County-City Building 930 Tacoma Ave. S., First Floor Tacoma, WA 98402	253.798.7462	Sheriff, Pierce County Head of criminal investigation in Washington; acting in consultation with Utah police
QUESTION 18 – medical providers			
Pierre Andre Dalumpines, MD	Franciscan Family Medicine 15214 Canyon Road E. Puyallup, WA 98375	253.539.4200	M.D. Doctor for Powell children
Lori Narigi, LCWS	Good Samaritan Behavioral Health 325 E. Pioneer Puyallup, WA 98372	253.445.8120	Counselor, Good Samaritan Behavioral Health Counselor for both Powell children
Thomas Hirota, D.O., FAAD	Cascade Eye and Skin	253.848.3000	Osteopathic physician; Fellow of the American Academy of Dermatology Child psychologist Treated Braden
Jennifer Knight, MA, LMHC	1011 East Main, Suite 450 Puyallup, WA 98372	253.604.4354	Assisted the police

EXHIBIT 2



Rob McKenna
ATTORNEY GENERAL OF WASHINGTON

Torts Claims Investigation

7141 Cleanwater Drive SW • PO Box 40127 • Tumwater WA 98504-0127

August 8, 2012

The Law Offices of James S. Rogers

AUG 9 2012

Anne Bremner, PC
Attorney at Law
1200 5th Avenue #1900
Seattle WA 98101

James S. Rogers
Attorney at Law
1500 4th Ave #1500
Seattle WA 98101

RECEIVED

RE: Claim of Powell, Susan (Dussault, William as LGAL)
DRM No. 30070893


Dear Counsel:

We are in receipt of a copy of your client's claim against the State of Washington in the amount of \$20,000,000.00 which was filed with the Office of Risk Management on August 8, 2012. This acknowledgment does not indicate the State's agreement that your claim should be allowed or is legally sufficient. Please be advised that an initial investigation by our office of your claim may take 60-80 days.

Any further correspondence or inquiries you have about the claim should be directed to the undersigned at:

Office of the Attorney General
Tort Claims Division
7141 Cleanwater Drive SW
P.O. Box 40127
Olympia, WA 98504-0127
Telephone: (360) 586-6345

Very truly yours,


LEIGH J. SWANSON
Chief Torts Investigator

LJS:tim

EXHIBIT 3

August 24 2012 8:30 AM

KEVIN STOCK
COUNTY CLERK
NO: 12-2-11389-6IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTYWILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

CONFIRMATION OF SERVICE

(CS / CSSRV)

CS [] All the named defendants/petitioners/respondents have been served, have joined or have accepted service in writing. (Check if appropriate, otherwise check the box below.)**CSSRV [XX] One or more named defendants have not yet been served.**
(If this box is checked, an additional confirmation of service must be filed pursuant to subsection (b) when service is obtained and the following information must be provided.)**The following defendants have been served or have joined or accepted service:**

No defendants have joined or accepted service.

The following defendants have not yet been served:

CONFIRMATION OF SERVICE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

Defendant State of Washington, Department of Social and Health Services has not been served.

Reasons why service has not yet been obtained:

Service has not been obtained because this is a claim against the State of Washington, and RCW 4.92.110 requires that Plaintiff file a Notice of Claim, and the expiration of 60 days after the date of filing of the claim, before an action can be commenced. The 60 days required by RCW 4.92.110 has not elapsed. The Notice of Claim was served on August 7, 2012 and the 60 days expire on October 8, 2012. The State of Washington has acknowledged the claim by letter dated August 8, 2012. The captioned matter was initiated, and cause number assigned, so that a Litigation Guardian Ad Litem could be appointed by the Court, and have the authority to sign the required Notice of Claim form. The Complaint in this matter is expected to be filed by October 30, 2012.

How service will be obtained:

Service will be obtained by serving upon the Office of Attorney General.

Date by which service is expected to be obtained:

Service is expected to be obtained by November 9, 2012

No other named defendants remain to be served.

DATED this 23rd day of August, 2012.

LAW OFFICES OF JAMES S. ROGERS

s/ Dana A. Henderson
James S. Rogers, WSBA #5335
Dana A. Henderson, WSBA #32507
Attorneys for William L. E. Dussault, LGAL
1500 Fourth Avenue, Suite 500
Telephone: (206) 621-8525
Fax: (206) 223-8224
jsr@jsrogerslaw.com
dah@jsrogerslaw.com

CONFIRMATION OF SERVICE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224



IN THE SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

WILLIAM L E DUSSAULT

Plaintiff(s)

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

Cause Number: 12-2-11389-6

MEMORANDUM OF JOURNAL ENTRY

Page 1 of 2

Judge/Commissioner: STEPHANIE A. AREND

Court Reporter: JAN-MARIE GLAZE

Judicial Assistant/Clerk: Dan Vessels Jr

DUSSAULT, WILLIAM L E

POWELL, SUSAN

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DUSSAULT, WILLIAM L E

JAMES STEVEN ROGERS

Dana A. Henderson

Attorney for Plaintiff/Petitioner

Attorney for Plaintiff/Petitioner

Proceeding Set: Noncompliance Hearing

Proceeding Outcome: Continued

Resolution:

Outcome Date: 09/21/2012 13:45

Clerk's Scomis Code: HCNTU

Proceeding Outcome code: CONT

Resolution Outcome code:

Amended Resolution code:

IN THE SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

WILLIAM L E DUSSAULT

Cause Number: 12-2-11389-6

**MEMORANDUM OF
JOURNAL ENTRY**

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Page: 2 of 2
Judge/Commissioner:
STEPHANIE A. AREND

MINUTES OF PROCEEDING

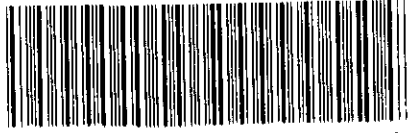
Judicial Assistant/Clerk: Dan Vessels

Court Reporter: JAN-MARIE GLAZE

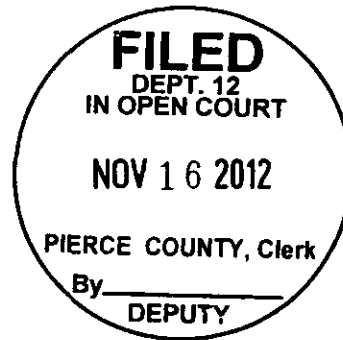
Start Date/Time: 09/21/12 1:44 PM

September 21, 2012 01:43 PM Attorney Dana Henderson present for Plaintiff in this matter. Attorney Henderson addresses the court regarding Confirmation of Service. Court inquires with Attorney Henderson regarding lack of complaint in this case. Court sets this matter over to November 16th to allow case to come into compliance.

End Date/Time: 09/21/12 1:45 PM



12-2-11389-6 39554003 CME 11-20-12



IN THE SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

WILLIAM L E DUSSAULT

Plaintiff(s)

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

Cause Number: 12-2-11389-6

MEMORANDUM OF JOURNAL ENTRY

Page 1 of 2

Judge/Commissioner: STEPHANIE A. AREND

Court Reporter: NOT ON RECORD

Judicial Assistant/Clerk: Dan Vessels Jr

DUSSAULT, WILLIAM L E

POWELL, SUSAN

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DUSSAULT, WILLIAM L E

JAMES STEVEN ROGERS

Dana A. Henderson

Attorney for Plaintiff/Petitioner

Attorney for Plaintiff/Petitioner

Proceeding Set: Noncompliance Hearing

Proceeding Outcome: Fail to Appear-Party(ies)

Resolution:

Outcome Date: 11/16/2012 14:38

Clerk's Scomis Code:HSTKNA

Proceeding Outcome code:FTA

Resolution Outcome code:

Amended Resolution code:

IN THE SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

WILLIAM L E DUSSAULT

Cause Number: 12-2-11389-6

**MEMORANDUM OF
JOURNAL ENTRY**

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Page: 2 of 2
Judge/Commissioner:
STEPHANIE A. AREND

MINUTES OF PROCEEDING

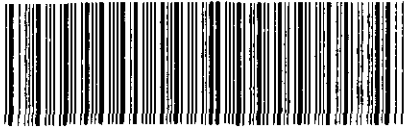
Judicial Assistant/Clerk: Dan Vessels

Court Reporter: NOT ON RECORD

Start Date/Time: 11/16/12 2:38 PM

November 16, 2012 02:38 PM Court notes the time and parties have failed to appear, court enters Order on Noncompliance in this matter.

End Date/Time: 11/16/12 2:38 PM



12-2-11389-6 39555146 ORNCHG 11-20-12

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

WILLIAM L E DUSSAULT,

Plaintiff(s) ,

vs.

DEPARTMENT OF SOCIAL AND HEALTH

SERVICES,

Defendant(s) .

Cause No: 12-2-11389-6

Order of Non-Compliance

ORNCHG

This case is out of compliance for the following reasons:

Confirmation of Service – Not Filed

Deadline: August 27, 2012

The Court set a non-compliance hearing on November 16, 2012, at 1:30 PM and provided notice to the parties; the parties, however, failed to appear at the non-compliance hearing.

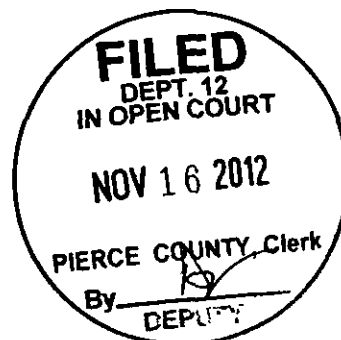
Future proceedings are scheduled in this matter and a trial date of 7/29/2013 9:00:00 AM. Now, therefore, it is hereby

ORDERED that this case needs to come into compliance prior to the trial date previously mentioned.

DATED this 16th day of November, 2012.

Stephanie A. Arend
JUDGE STEPHANIE A. AREND

cc: ANNE MELANI BREMNER



November 26 2012 4:15 PM

KEVIN STOCK
COUNTY CLERK
NO: 12-2-11389-6IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTYWILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6CONFIRMATION OF JOINDER OF
PARTIES, CLAIMS AND DEFENSES

Docket Code: CJ, CJN

CJNSC

☐ The parties make the following joint representations:
(IF THIS BOX IS CHECKED, THERE WILL NOT BE A STATUS
CONFERENCE)

1. This case is not subject to mandatory arbitration. (If it is, this report should not be filed; instead, no later than the deadline for filing this report, a statement of arbitrability should be filed.)
2. No additional parties will be joined.
3. All parties have been served or have accepted service.
4. All mandatory pleadings have been filed.
5. No additional claims or defenses will be raised.
6. The parties anticipate no problems in meeting the deadlines for disclosing possible witnesses and other subsequent deadlines in the Case Schedule.
7. All parties have cooperated in completing this report.

CONFIRMATION OF JOINDER OF
PARTIES, CLAIMS AND DEFENSES – 1**LAW OFFICES OF JAMES S. ROGERS**
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

CJ ☒ The parties do not join in making the foregoing representation, as explained below (if appropriate, check both the box at left and every applicable box below);
(IF THE BOX ADJACENT TO THE PRECEDING SENTENCE IS CHECKED, THERE WILL BE A STATUS CONFERENCE, WHICH ALL PARTIES OR THEIR ATTORNEYS MUST ATTEND.)

☐ An additional party will be joined.

☒ A party remains to be served.

☒ A mandatory pleading remains to be filed.

☐ An additional claim or defense will be raised.

☒ One or more parties anticipate a problem in meeting the deadlines for disclosing possible witnesses or other subsequent deadlines in the Case Schedule.

☒ Other explanation:

Service has not been obtained because this is a claim against the State of Washington, and RCW 4.92.110 requires that Plaintiff file a Notice of Claim, and the expiration of 60 days after the date of filing of the claim, before an action can be commenced. The 60 days required by RCW 4.92.110 has only recently elapsed. The Notice of Claim was served on August 7, 2012. The State of Washington has acknowledged the claim by letter dated August 8, 2012.

The captioned matter was initiated, and cause number assigned, so that a Litigation Guardian Ad Litem could be appointed by the Court, and have the authority to sign the required Notice of Claim form. The Complaint in this matter is has not yet been filed because it has recently come to plaintiffs' counsels' attention that an additional notice of claim must be filed by the decedents' estate's personal representatives. This additional notice of claim will be filed by December 3, 2012, which will require another 60 day waiting period before the Complaint may be filed.

Plaintiffs will also be moving the Court to Amend the Caption of the pending action and to stay all current or pending court deadlines, as the current case management order was promulgated by the clerk of court without a Complaint on file, and it seems untenable for deadlines to be approaching when the personal representatives have not completed the Notice of Claim process.

In order to obtain the court's direction in the matters described above, the parties will appear at an Initial Status Conference, the date of which (as stated in the Case Schedule) is: The week of December 24, 2012.

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CONFIRMATION OF JOINDER OF
PARTIES, CLAIMS AND DEFENSES – 2

LAW OFFICES OF JAMES S. ROGERS
 1500 Fourth Avenue, Suite 500
 Seattle WA 98101
 Ph: 206/621-8525 Fax: 206/223-8224

1 DATED this 26th day of November 2012.

2 LAW OFFICES OF JAMES S. ROGERS

3 s/ Dana A. Henderson

James S. Rogers, WSBA #5335

4 Dana A. Henderson, WSBA #32507

Attorneys for William L. E. Dussault, LGAL

5 1500 Fourth Avenue, Suite 500

Telephone: (206) 621-8525

6 Fax: (206) 223-8224

jsr@jsrogerslaw.com

7 dah@jsrogerslaw.com

8 ANNE BREMNER. P.C.

9 s/Anne Bremner

10 Anne Bremner, WSBA #13269

Attorneys for Plaintiff

11 1200 Fifth Avenue

Suite 1900

12 Seattle, WA 98101

Telephone: (206) 486-8000

13 Facsimile: (206) 902-9660

abremner@freybuck.com

14 Bremner.Anne@gmail.com

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CONFIRMATION OF JOINDER OF
PARTIES, CLAIMS AND DEFENSES – 3

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224



12-2-11389-6 39584780 NONC 11-28-12

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

WILLIAM L E DUSSAULT

Plaintiff(s)

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

No. 12-2-11389-6

**NOTICE OF NONCOMPLIANCE
AND ORDER SETTING
NONCOMPLIANCE HEARING**

Court records indicate that the attorneys and/or parties listed below have failed to comply with the Case Schedule in regard to the following items:

Confirmation of Service - Not Filed - Refer to Pierce County Local Rule 2

Deadline: 08/27/12

Confirmation of Joinder of Parties, Claims and Defenses - Not Filed

Deadline: 11/26/12

You are hereby ORDERED to appear for a hearing at 1:30 pm on Friday, 12/21/12 to comply with the Case Schedule, or deliver a report of the same no later than the time set for the hearing.

The court may impose sanctions or terms for failure to comply with the Case Schedule. If the court finds that an attorney or party has failed to comply with the Case Schedule and has no reasonable excuse, the court may order the attorney or party to pay monetary sanctions to the court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the court may impose such other sanctions as justice requires. See PCLR 3 (j).

Judge Stephanie A. Arend
Department 12
Phone #: 253-798-7562

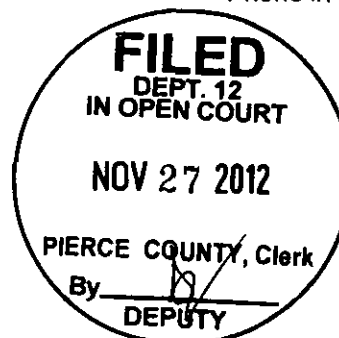
DATED: 11/27/12

Copies mailed to:

James Steven Rogers

Dana A. Henderson

Anne Melani Bremner



TO:

Superior Court Clerk for Filing
(Court File Copy)



**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

WILLIAM L E DUSSAULT

Plaintiff(s)

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

No. 12-2-11389-6

**NOTICE OF NONCOMPLIANCE
AND ORDER SETTING
NONCOMPLIANCE HEARING**

Court records indicate that the attorneys and/or parties listed below have failed to comply with the Case Schedule in regard to the following items:

Confirmation of Service - Not Filed - Refer to Pierce County Local Rule 2

Deadline: 08/27/12

Confirmation of Joinder of Parties, Claims and Defenses - Not Filed

Deadline: 11/26/12

You are hereby ORDERED to appear for a hearing at 1:30 pm on Friday, 12/21/12 to comply with the Case Schedule, or deliver a report of the same no later than the time set for the hearing.

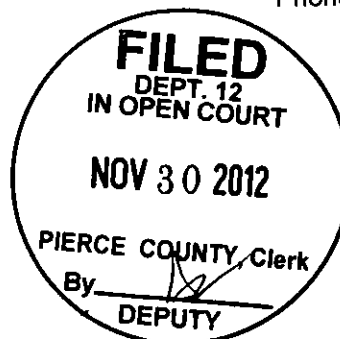
The court may impose sanctions or terms for failure to comply with the Case Schedule. If the court finds that an attorney or party has failed to comply with the Case Schedule and has no reasonable excuse, the court may order the attorney or party to pay monetary sanctions to the court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the court may impose such other sanctions as justice requires. See PCLR 3 (j).

DATED: 11/30/12

Judge Stephanie A. Arend
Department 12
Phone #: 253-798-7562

Copies mailed to:

James Steven Rogers
Dana A. Henderson
Anne Melani Bremner



TO:

Superior Court Clerk for Filing
(Court File Copy)

December 03 2012 10:37 AM

KEVIN STOCK
COUNTY CLERK
NO: 12-2-11389-6

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

WILLIAM L E DUSSAULT

Plaintiff(s),

vs.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

NO. 12-2-11389-6

DEMAND FOR JURY
TWELVE (12) PERSON

Comes now the plaintiff(s), by and through the undersigned, pursuant to statute and court rule, hereby demands a jury trial in the above captioned matter and herewith tenders into the registry of the court \$250.00, the jury fee required by law.

DATED: December 03, 2012

/s/ Dana A. Henderson
Dana A. Henderson, #32507

December 18 2012 3:38 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: December 21, 2012
TIME: 9:00 a.m.
NO. 12-2-11389-6
KEVIN STOCK
COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

**NOTE FOR JUDGE'S MOTION
DOCKET**

TO THE CLERK OF THE SUPERIOR COURT:

Please take notice that an issue of law in this case will be heard on the date below and the clerk is directed to note this on the appropriate calendar:

**Pierce County Superior Court, County-
City Building – 930 Tacoma Ave. S – Tacoma, WA 98402**

JUDGE: The Honorable Stephanie A. Arend

CALENDAR DATE: Friday, December 21, 2012 TIME: 9:00 am

**Proceeding Type: MOTION TO SHORTEN TIME TO HEAR PLAINTIFF'S MOTION FOR
CR 16 CONFERENCE**

NOTE FOR JUDGE'S MOTION DOCKET

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 **WORKING COPIES SHALL BE DELIVERED TO THE COURT PURSUANT TO PCLR 7 (a) (7)**
2 **PARTY SETTING HEARING SHALL CONFIRM BY NOON, TWO (2) COURT WORKING**
3 **DAYS PRIOR TO HEARING OR HEARING WILL BE CANCELLED**

4 **Submitted by:**

5 DATED this 18th day of December, 2012.

6 LAW OFFICES OF JAMES S. ROGERS

7
8 s/Dana A. Henderson

9 James S. Rogers, WSBA #5335

10 Dana Henderson, WSBA #32507

11 Law Offices of James S. Rogers

12 1500 4th Avenue, Suite 500

13 Seattle, Washington 98101

14 Phone: 206-621-8525

15 Attorneys for Plaintiffs

16
17
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23
24 NOTE FOR JUDGE'S MOTION DOCKET

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

December 18 2012 3:38 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: December 10, 2012
TIME: 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

MOTION TO SHORTEN TIME TO HEAR
PLAINTIFF'S MOTION FOR CR 16
CONFERENCE

I. RELIEF REQUESTED

Plaintiff seeks shortened time to hear its Motion for CR 16 Conference, filed contemporaneously herewith. This will be an unopposed Motion for CR 16 Conference as there is no defendant in this matter.

II. BRIEF RELEVANT FACTS

On Thursday, December 13, 2012, Plaintiff attempted to file a Motion for CR 16 Conference electronically, via the Pierce County Superior Court electronic filing system. Declaration of Dana A. Henderson ("Henderson Decl."). Though the motion was ready in time to

MOTION TO SHORTEN TIME TO HEAR PLAINTIFF'S
MOTION FOR CR 16 CONFERENCE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 file per plaintiff's counsel's usual practice and experience with Pierce County's electronic filing
 2 system, for an unknown reason, counsel was not able to file the documents and received an error
 3 message. *Id.*, Exh. 1. As such, counsel was unable to file the Motion for CR 16 Conference with
 4 six days' notice in order to be heard on Friday, December 21, 2012. *Id.*

5 This motion to shorten time is necessitated because the Motion for CR 16 Conference
 6 should be heard on the morning of Friday, December 21, 2012 in order to hopefully moot and
 7 address the issues before the court in the show cause hearing that has been set for the afternoon of
 8 Friday, December 21, 2012. *Id.*

9 The underlying Motion will be unopposed as there is no defendant in this case. *Id.*

10 **III. EVIDENCE RELIED UPON**

11 This request is based on the records and pleadings on file herein and the Declaration of
 12 Dana A. Henderson ("Henderson Decl.") and the exhibit thereto.

13 **IV. LAW AND ARGUMENT**

14 PCLR 7(c)(2)(A) provides that a party requesting a motion on hearing for shortened time
 15 must submit a declaration in writing to explain why consideration on shortened time is necessary.
 16 Plaintiffs have done so here, and ask that shortened time be granted so that this uncontested motion
 17 in a case in which there are no defendants may be heard in the most expedited manner and to
 18 preserve judicial efficiency in order to hopefully moot the show cause hearing set for Friday,
 19 December 21, 2012. Plaintiffs attempted to file the underlying motion on time, but were unable
 20 to do so due to an unforeseen glitch in Pierce County's electronic filing system.

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Honorable Court hear Plaintiff's Motion for CR 16 Conference on Friday, December 21, 2012 at 9:00 a.m.

DATED this 18th day of December, 2012.

LAW OFFICES OF JAMES S. ROGERS

s/ Dana A. Henderson
James S. Rogers, WSBA #5335
Dana A. Henderson, WSBA #32507
Attorneys for William L. E. Dussault, LGAL
1500 Fourth Avenue, Suite 500
Telephone: (206) 621-8525
Fax: (206) 223-8224
jsr@jsrogerslaw.com
dah@jsrogerslaw.com

ANNE BREMNER. P.C.

s/Anne Bremner
Anne Bremner, WSBA #13269
Attorneys for Plaintiff
1200 Fifth Avenue
Suite 1900
Seattle, WA 98101
Telephone: (206) 486-8000
Facsimile: (206) 902-9660
abremner@freybuck.com
Bremner.Anne@gmail.com

MOTION TO SHORTEN TIME TO HEAR PLAINTIFF'S
MOTION FOR CR 16 CONFERENCE – 3

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

December 18 2012 3:38 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: December 11, 2012
TIME: 9:00 a.m.
NO. 12-2-11389-6

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

DECLARATION OF DANA A.
HENDERSON IN SUPPORT OF
MOTION TO SHORTEN TIME TO HEAR
PLAINTIFF'S MOTION FOR CR 16
CONFERENCE

I, Dana A. Henderson, under penalty of perjury under the laws of the State of
Washington, declare as follows.

1. I am over the age of 18 and am competent to testify regarding the matters herein.

I make the following statements based on my personal knowledge.

2. I am one of the attorneys for the Plaintiff.

3. On Thursday, December 13, 2012, staff at my office attempted to file a Motion for
CR 16 Conference electronically, via the Pierce County Superior Court electronic filing system.

DECLARATION OF DANA A. HENDERSON IN
SUPPORT OF MOTION TO SHORTEN TIME TO HEAR
PLAINTIFF'S MOTION FOR CR 16 CONFERENCE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

An error occurred when you requested this page. We apologize for the inconvenience.

December 18 2012 3:38 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: December 21, 2012
TIME: 9:00 a.m.
NO. 12-2-11389-6
KEVIN STOCK
COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

**NOTE FOR JUDGE'S MOTION
DOCKET**

TO THE CLERK OF THE SUPERIOR COURT:

Please take notice that an issue of law in this case will be heard on the date below and the clerk is directed to note this on the appropriate calendar:

Pierce County Superior Court, County-

City Building – 930 Tacoma Ave. S – Tacoma, WA 98402

JUDGE: The Honorable Stephanie A. Arend

CALENDAR DATE: Friday, December 21, 2012 TIME: 9:00 am

Proceeding Type: MOTION FOR CR 16 PRETRIAL CONFERENCE

NOTE FOR JUDGE'S MOTION DOCKET

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 **WORKING COPIES SHALL BE DELIVERED TO THE COURT PURSUANT TO PCLR 7 (a) (7)**
2 **PARTY SETTING HEARING SHALL CONFIRM BY NOON, TWO (2) COURT WORKING**
3 **DAYS PRIOR TO HEARING OR HEARING WILL BE CANCELLED**

4 **Submitted by:**

5 DATED this 18th day of December, 2012.

6 LAW OFFICES OF JAMES S. ROGERS

7
8 s/Dana A. Henderson
9 James S. Rogers, WSBA #5335
10 Dana Henderson, WSBA #32507
11 Law Offices of James S. Rogers
12 1500 4th Avenue, Suite 500
13 Seattle, Washington 98101
14 Phone: 206-621-8525
15 Attorneys for Plaintiffs
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NOTE FOR JUDGE'S MOTION DOCKET

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
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December 18 2012 3:38 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: December 11, 2012
TIME: 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

MOTION FOR CR 16 PRETRIAL
CONFERENCE

I. RELIEF REQUESTED

Plaintiff seeks an opportunity to discuss the posture of this case and the current case management order with the Court pursuant to CR 16. This action was commenced in order to appoint a litigation guardian ad litem, and no tort claim has been filed. A tort claim has not been filed because all potential Plaintiffs have not completed the sixty (60) day waiting period under RCW 4.92.110 for claims against the State of Washington. Plaintiff seeks the Court's assistance in deciding how to proceed in an orderly fashion with pursuit of tort claims. A pretrial conference would allow for protection of all parties' interests, including the State's.

MOTION FOR CR 16 PRETRIAL CONFERENCE – 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

II. BRIEF RELEVANT FACTS

The above captioned matter was initiated, and cause number assigned, so that a Litigation Guardian Ad Litem (LGAL) could be appointed by the Court. Declaration of Dana A. Henderson (“Henderson Decl.”). A LGAL was appointed because the mother who is asserting a claim for wrongful death of her two children is missing or incapacitated. *Id.* Plaintiff proceeded in this manner under the advice of the LGAL, out of an abundance of caution, to protect the mother’s interest. *Id.* The only substantive pleading before the Court has been a Petition to Appoint a Litigation Guardian Ad Litem. *See* Docket. No tort claim has been filed. *Id.*

Upon information and belief, the issuance of the above captioned cause number resulted in an automatically-promulgated case management order and trial date by the Superior Court Clerk’s Office. Henderson Decl. A show cause hearing is set for December 21, 2012 for failure to meet the deadlines, but there is no need for a trial or related deadlines in the present action because the relief sought – appointment of an LGAL - already has been granted. Also, many of the deadlines in the current case schedule do not pertain to the present action because it is limited to appointment of a litigation guardian. If and when tort claims are filed, either as part of this action or in a new action, a new case schedule will be needed.

III. EVIDENCE RELIED UPON

This request is based on the records and pleadings on file herein and the Declaration of Dana A. Henderson (“Henderson Decl.”) and exhibits thereto.

IV. LAW AND ARGUMENT

CR 16 provides for a pretrial conference, in part as follows:

(a) Hearing Matters Considered. By order, or on the motion of any party, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

- 1 (1) The simplification of the issues;
 2 (2) The necessity or desirability of amendments to the pleadings;
 3
 4 (5) Such other matters as may aid in the disposition of the action.

5 (b) Pretrial Order. The court shall make an order which recites the
 6 action taken at the conference, the amendments allowed to the pleadings,
 7 and the agreements made by the parties as to any of the matters considered,
 8 . . . and such order when entered controls the subsequent course of the action . . .

9 CR 16. Plaintiff requests a CR 16 conference with the hopes of clarifying case management issues
 10 for the benefit of all parties.

11 Counsel also seeks the Court's guidance with regard to disposition and management of the
 12 current case management order. When a Petition to appoint a LGAL was filed, a case
 13 management order was issued contemporaneously therewith. Because the only substantive
 14 pleading on file herein is the Petition to appoint a LGAL, presumably, the case management order
 15 that is in place governs only that issue, and therefore the case management order that is in place no
 16 longer applies. However, there is a lack of clarity on this point considering that the LGAL has
 17 been appointed and yet the case management order is apparently still in effect in the Court's view,
 18 as there is a show cause hearing set for December 21, 2012 to address expired deadlines. If the
 19 current case management order is in fact in effect, Plaintiff and any potential Plaintiffs are unable
 20 to meet pending case management order deadlines. In a CR 16 conference, counsel hopes to
 21 remedy the fact that the automatically-generated Court deadlines have and will continue to expire
 22 while Plaintiff/s are unable to meet those deadlines. Out of fairness to the State, it should also be
 23 noted that once the State is served, the State will be appearing in a case that is well into the pretrial
 24 case management order, and the State will not have the benefit of the usual schedule to conduct
 discovery and prepare for trial.

V. CONCLUSION

For the foregoing reasons, Plaintiff would appreciate the opportunity under CR 16 to discuss with the Court the most efficient and effective way to manage this litigation. Because tort claims have not been filed, the State has not appeared, thus any pretrial conference would be with Plaintiff's counsel only.

DATED this 18th day of December, 2012.

LAW OFFICES OF JAMES S. ROGERS

s/ Dana A. Henderson
James S. Rogers, WSBA #5335
Dana A. Henderson, WSBA #32507
Attorneys for Plaintiff
1500 Fourth Avenue
Suite 500
Seattle, WA 98101
Telephone: (206) 621-8525
Facsimile: (206) 223-8224
jsr@jsrogerslaw.com
dah@jsrogerslaw.com

ANNE BREMNER. P.C.

s/Anne Bremner
Anne Bremner, WSBA #13269
Attorneys for Plaintiff
1200 Fifth Avenue
Suite 1900
Seattle, WA 98101
Telephone: (206) 486-8000
Facsimile: (206) 902-9660
abremner@freybuck.com
Bremner.Anne@gmail.com

December 18 2012 3:38 PM

THE HONORABLE STEPHANIE A. AREND
DEPARTMENT 12
HEARING DATE: December 12, 2012
TIME: 9:00 a.m.
NO. 12-2-11389-6
KEVIN STOCK
COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WILLIAM L.E. DUSSAULT AS LGAL FOR
SUSAN POWELL, an incapacitated person,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

DECLARATION OF DANA A.
HENDERSON IN SUPPORT OF
MOTION FOR CR 16 PRETRIAL
CONFERENCE

I, Dana A. Henderson, under penalty of perjury under the laws of the State of
Washington, declare as follows.

1. I am over the age of 18 and am competent to testify regarding the matters herein.

I make the following statements based on my personal knowledge.

2. I am one of the attorneys for the Plaintiff.

3. The captioned matter was initiated, and cause number assigned, so that a Litigation
Guardian Ad Litem (LGAL) could be appointed by the Court. A LGAL was appointed because

DECLARATION OF DANA A. HENDERSON IN
SUPPORT OF MOTION FOR CR 16 PRETRIAL
CONFERENCE – 1

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1 the mother who is asserting a claim for wrongful death of her two children is missing or
2 incapacitated. We proceeded in this manner under the advice of the LGAL, out of an abundance of
3 caution, to protect the mother's interest. The only substantive pleading we have filed with the
4 Court has been a Petition to Appoint a Litigation Guardian Ad Litem.

5 4. It is my understanding that the issuance of the captioned cause number resulted in
6 an automatically-promulgated case management order and trial date by the Superior Court Clerk's
7 Office.

8 5. A show cause hearing is set for December 21, 2012 for failure to meet the
9 deadlines, but there is no need for a trial or related deadlines in the present action because the relief
10 sought – appointment of an LGAL - already has been granted. Also, many of the deadlines in the
11 current case schedule do not pertain to the present action because it is limited to appointment of a
12 litigation guardian. If and when tort claims are filed, either as part of this action or in a new action,
13 a new case schedule will be needed.

14 6. We would appreciate the opportunity under CR 16 to seek the Court's guidance
15 with regard to disposition and management of the current case management order.

16 DATED this 18th day of December 2012, in Seattle, Washington.

17
18 s/ Dana A. Henderson

19 DANA A. HENDERSON, WSBA #32507
20
21
22
23
24

DECLARATION OF DANA A. HENDERSON IN
SUPPORT OF MOTION FOR CR 16 PRETRIAL
CONFERENCE – 2

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12-2-11389-6 39728171 ORSCS 12-24-12

**OF THE STATE OF WASHINGTON
PIERCE COUNTY**

WILLIAM L E DUSSAULT

Plaintiff(s)

vs

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

No. 12-2-11389-6

**ORDER SETTING
CASE SCHEDULE**

Type of Case WDE

Estimated Trial (days)

Track Assignment Standard

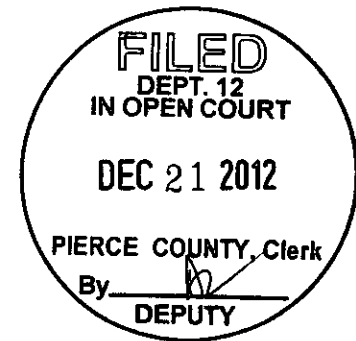
Assigned Department 12

Docket Code ORSCS

Mandatory - Court Review Hrg

04/26/13 9.00

Unless otherwise instructed, ALL Attorneys/Parties shall report to the trial court at 9:00 AM on the date of trial.



NOTICE TO PLAINTIFF/PETITIONER

If the case has been filed, the plaintiff shall serve a copy of the Case Schedule on the defendant(s) with the summons and complaint/petition. Provided that in those cases where service is by publication the plaintiff shall serve the Case Schedule within five (5) court days of service of the defendant's first response/appearance. If the case has not been filed, but an initial pleading is served, the Case Schedule shall be served within five (5) court days of filing. See PCLR 3.

NOTICE TO ALL PARTIES

All attorneys and parties shall make themselves familiar with the Pierce County Local Rules, particularly those relating to case scheduling. Compliance with the scheduling rules is mandatory and failure to comply shall result in sanctions appropriate to the violation. If a statement of arbitrability is filed, PCLR 3 does not apply while the case is in arbitration.

DATED 12/21/12

Judge Stephanie A. Arend
Department 12 (253) 798-7562

Case 3:14-cv-05923-RBL Document 7-1 Filed 11/19/14 Page 67 of 79 12/24/2012 1:58:36 PM 988266

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

WILLIAM L E DUSSAULT

Plaintiff(s)

vs

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

No. 12-2-11389-6

**ORDER SETTING
CASE SCHEDULE**

Type of Case WDE

Estimated Trial (days)

Track Assignment Standard

Assigned Department 12

Docket Code ORSCS

CC: DEPARTMENT OF SOCIAL AND HEALTH SERVICES, PRO SE (Self-Represented)
WILLIAM L E DUSSAULT, PRO SE (Self-Represented)
ANNE MELANI BREMNER, Atty
Dana A. Henderson, Atty
JAMES STEVEN ROGERS, Atty



IN THE SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

WILLIAM L E DUSSAULT

Plaintiff(s)

vs

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Defendant(s)

Cause Number 12-2-11389-6

MEMORANDUM OF JOURNAL ENTRY

Page 1 of 2

Judge/Commissioner STEPHANIE A AREND

Court Reporter JAN-MARIE GLAZE

Judicial Assistant/Clerk. Dan Vessels Jr

DUSSAULT, WILLIAM L E

POWELL, SUSAN

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DUSSAULT, WILLIAM L E

JAMES STEVEN ROGERS

Dana A Henderson

Attorney for Plaintiff/Petitioner

Attorney for Plaintiff/Petitioner

Proceeding Set Noncompliance Hearing

Proceeding Outcome Review Held

Resolution

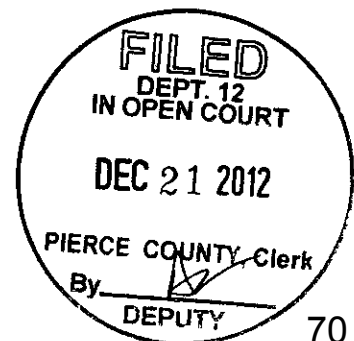
Outcome Date. 12/21/2012 13 47

Clerk's Scomis Code:RVWHRG

Proceeding Outcome code **RVWHRG**

Resolution Outcome code

Amended Resolution code



IN THE SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

WILLIAM L E DUSSAULT

Cause Number 12-2-11389-6

**MEMORANDUM OF
JOURNAL ENTRY**

VS

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Page 2 of 2
Judge/Commissioner
STEPHANIE A AREND

MINUTES OF PROCEEDING

Judicial Assistant/Clerk Dan Vessels
Start Date/Time: 12/21/12 1:45 PM

Court Reporter JAN-MARIE GLAZE

December 21, 2012 01:45 PM Attorney Dana Henderson present for Plaintiff in this matter. Attorney Henderson addresses court regarding the status of this case Court reviews reason for noncompliance with parties Court strikes case schedule and sets Mandatory Court Review for April 26th.

End Date/Time: 12/21/12 1:47 PM

April 01 2013 8:30 AM

THE HONORABLE STEPHANIE A. AREND
KEVIN STOCK
COUNTY CLERK
NO: 12-2-11389-6

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

JUDITH COX and CHARLES COX individually
and as Personal Representatives of the Estates of
C.J.P. and B.T.P.,

NO. 12-2-11389-6

SUMMONS

Plaintiffs,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

TO: DEFENDANT:

A lawsuit has been started against you in the above-entitled court by the Plaintiff herein. Plaintiff's claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serve a copy upon the person signing this Summons within twenty (20) days after the service of this Summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the plaintiff is entitled to

SUMMONS – 1

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Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 what s/he asks for because you have not responded. If you serve a Notice of Appearance on the
2 undersigned person, you are entitled to notice before a default judgment may be entered.

3 You may demand that the Plaintiff file this lawsuit with the court. If you do so, the
4 demand must be in writing and must be served upon the person signing this summons. Within
5 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the
6 service upon you of this Summons and Complaint for Damages will be void.

7 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
8 that your written response, if any, may be served in time.

9 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State
10 of Washington.

11 DATED this 1st day of April, 2013.

12 LAW OFFICES OF JAMES S. ROGERS

13
14 s/ James S. Rogers

15 James S. Rogers, WSBA #5335

16 Dana A. Henderson, WSBA #32507

17 Elizabeth J. Donaldson, WSBA #45291

18 Attorneys for Plaintiffs

19 1500 Fourth Avenue

20 Suite 500

21 Seattle, WA 98101

22 Telephone: (206) 621-8525

23 Facsimile: (206) 223-8224

24 jsr@jsrogerslaw.com

dah@jsrogerslaw.com

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SUMMONS – 2

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FREY BUCK, P.S.

s/ Anne Bremner

Anne Bremner, WSBA #13269

Evan Bariault, WSBA #42867

Attorneys for Plaintiffs

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Suite 1900

Seattle, WA 98101

Telephone: (206) 486-8000

Facsimile: (206) 902-9660

abremner@freybuck.com

ebariault@freybuck.com

SUMMONS – 3

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Ph: 206/621-8525 Fax: 206/223-8224

April 01 2013 8:30 AM

THE HONORABLE STEPHANIE A. AREND
KEVIN STOCK
COUNTY CLERK
NO: 12-2-11389-6

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

JUDITH COX and CHARLES COX individually
and as Personal Representatives of the Estates of
C.J.P. and B.T.P.,

Plaintiffs,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-11389-6

COMPLAINT FOR DAMAGES

Plaintiffs allege as follows:

I. PARTIES

1. Plaintiffs Judith Cox and Charles Cox are and, at all times material were, residents of Pierce County, Washington.

2. Plaintiffs Judith Cox and Charles Cox are the duly appointed Personal Representatives (Administrators) of the Estates of C.J.P. and B.T.P. by Order of the Superior Court of Pierce County dated March 12, 2012 (Pierce County Cause No. 12-4-00371-1) and, as

COMPLAINT – 1

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such, are authorized to commence and maintain this action on behalf of the Estates of C.J.P. and B.T.P. and the statutory beneficiaries.

3. Defendant State of Washington, Department of Social and Health Services (hereinafter referred to as “DSHS”) is a department/agency of the State of Washington. Among other things, DSHS is responsible under the laws of the State of Washington for the licensing and monitoring of foster homes, the operation of the foster care system, monitoring placements of foster children, monitoring supervised visitations, and for the health, safety and welfare of children in its custody.

4. There are various agencies, sub-agencies, divisions, and programs that fall within the purview of DSHS. In this action, there were agencies, sub-agencies, divisions, and programs that acted on behalf of, and/or were to be utilized by DSHS to protect and care for children who are wards of the State of Washington. These various agencies, sub-agencies, divisions, and programs include, but are not limited to, the Department of Child Protective Services (“CPS”) and the Division of Children and Family Services (“DCFS”).

5. When not otherwise specified herein, the State of Washington, Department of Health and Social Services and its agents, agencies, sub-agencies, divisions, and programs are herein collectively referred to as “DSHS.”

II. JURISDICTION, VENUE, AND STATUTORY COMPLIANCE

6. Most of the conduct alleged herein occurred in Pierce County, Washington; therefore, jurisdiction and venue are proper in Pierce County, Washington.

7. Tort claims were filed in this matter pursuant to RCW 4.92, *et seq.*, and sixty (60) days have gone by since a notice of claim was properly served on the State of Washington without resolution of the claims.

III. FACTS

8. On or about September 22, 2011, Susan Powell's two minor children, C.J.P., age 7, and B.T.P., age 5, were placed under the control and protective custody of CPS, DSHS, and/or DCFS.

9. Upon information and belief, DSHS immediately placed C.J.P. and B.T.P. into foster care within the family home of Jay and Carolee Hall.

10. On or about September 27, 2011, DSHS transferred C.J.P. and B.T.P. to the care of their maternal grandparents, Charles and Judith Cox.

11. On or around October 4, 2011, DSHS began allowing C.J.P. and B.T.P.'s father, Josh Powell, to have DSHS supervised visitations with C.J.P. and B.T.P. in Josh Powell's home.

12. On or around February 5, 2012, during a DSHS supervised visit, Josh Powell killed C.J.P., B.T.P., and himself.

**IV. FIRST CAUSE OF ACTION:
NEGLIGENCE**

13. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth under this count, and further allege:

14. DSHS was, at all times material to this action, charged with the protection and care of C.J.P. and B.T.P. and, as such, had a special protective relationship with C.J.P. and B.T.P.

15. DSHS had a duty to protect and care for C.J.P. and B.T.P. by properly interviewing, screening, and thoroughly investigating Josh Powell before allowing him visitation with C.J.P. and B.T.P.

16. DSHS negligently failed to protect and care for C.J.P. and B.T.P. by failing to properly interview, screen, and thoroughly investigate Josh Powell before allowing him

COMPLAINT – 3

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visitation with C.J.P. and B.T.P.

17. DSHS had a non-delegable duty and responsibility to interview, assess, screen, investigate, and/or refer any allegations of neglect, inappropriate conduct, and/or abuse concerning Josh Powell to the correct investigative body, to monitor the Powell home and environment, and to ensure that Josh Powell's visitations with C.J.P. and B.T.P. complied with the applicable statutes and regulations, and/or to otherwise protect the physical and emotional well-being of C.J.P. and B.T.P.

18. DSHS negligently failed to properly interview, assess, screen, investigate, and/or refer any allegations of neglect and/or abuse concerning Josh Powell to the correct investigative body, and to monitor the Powell home and environment.

19. DSHS had a duty to properly supervise, monitor, and investigate Josh Powell, given that it knew or should have known he presented a risk of harm to C.J.P. and B.T.P.

20. DSHS negligently failed to properly supervise, monitor, and investigate Josh Powell.

21. DSHS had a duty to provide stable visitation for C.J.P. and B.T.P.

22. DSHS negligently breached its duty to provide a stable visitation for C.J.P. and B.T.P.

23. DSHS had a duty to properly train, inform, assist, and provide resources to caseworkers and other DSHS personnel.

24. DSHS negligently breached its duty by failing to properly train, inform, assist, and provide resources to caseworkers and other DSHS personnel, and by such other malfeasance or nonfeasance.

25. C.J.P. and B.T.P.'s deaths were a direct and proximate result of the wrongful acts

COMPLAINT – 4

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1 and omissions of Defendant as set forth above.

2 26. As a result of the deaths of C.J.P. and B.T.P., which were a direct and proximate
3 result of the wrongful acts and omissions of Defendant as set forth above, Plaintiffs sustained
4 damages pursuant to RCW 4.20.010, 4.20.020, 4.20.046, and 4.20.060.

5 27. Such wrongful acts and omissions of Defendant caused Plaintiffs to suffer
6 economic loss by reason of the deaths of C.J.P. and B.T.P.

7 **V. SECOND CAUSE OF ACTION:**
8 **VIOLATION OF APPLICABLE STATUTES GUIDELINES AND POLICIES**

9 28. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth under
10 this count, and further allege:

11 29. C.J.P. and B.T.P., under the common law and Washington State statutes, had a
12 need and right to safe visitation and Defendant was required by law to provide such a safe,
13 permanent and stable home, environment, and visitations.

14 30. Defendant had a duty to adhere to and comply with all statutes and provisions that
15 pertained to the care and protection of C.J.P. and B.T.P. and all relevant administrative
16 guidelines and applicable departmental and divisional policies related thereto.

17 31. Defendant failed to adhere to and comply with all statutes and provisions that
18 pertained to the care and protection of C.J.P. and B.T.P. and all relevant administrative
19 guidelines and applicable departmental and divisional policies related thereto.

20 32. The failure of Defendant to comply with its statutory obligations as set forth
21 herein was a direct and proximate cause of the wrongful deaths of C.J.P. and B.T.P.

22 33. As a direct and proximate result of the failure of Defendant to comply with its
23 statutory obligations, Plaintiffs suffered economic loss by reason of the deaths of C.J.P. and
24 B.T.P.

COMPLAINT – 5

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34. As a direct and proximate result of the conduct of Defendant as set forth above, Plaintiffs sustained damages as a result of the deaths of C.J.P. and B.T.P. pursuant to RCW 4.20.010, 4.20.020, 4.20.046, and 4.20.060.

VI. THIRD CAUSE OF ACTION:
VIOLATIONS OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983

35. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth under this count, and further allege:

36. Each of the above-described acts of Defendant was carried out under color of State law and pursuant to the policy and practice of Defendant.

37. Defendant owed a duty to C.J.P. and B.T.P. to protect and care for C.J.P. and B.T.P. as set forth herein.

38. Defendant failed to adequately protect and care for C.J.P. and B.T.P. as set forth herein.

39. Such failure was due to the deliberate indifference of Defendant to the danger posed to C.J.P. and B.T.P. by inadequately protecting and caring for C.J.P. and B.T.P. as set forth herein.

40. The failure of Defendant to adequately protect and care for C.J.P. and B.T.P., as set forth herein, was a direct and proximate cause of the deaths of C.J.P. and B.T.P.

41. By failing to adequately protect and care for C.J.P. and B.T.P. as set forth herein, Defendant violated C.J.P. and B.T.P.'s rights not to be deprived of life without due process of the law as protected by the Fifth and Fourteenth Amendments to the United States Constitution.

42. By failing to adequately protect and care for C.J.P. and B.T.P., as set forth herein, Defendant violated the rights of Plaintiffs Charles Cox and Judith Cox to enjoy the continued society and companionship of their grandchildren, a family relationship protected by the

COMPLAINT – 6

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1 Fourteenth Amendment.

2 43. As a direct and proximate result of Defendant depriving Charles Cox, Judith Cox,
3 C.J.P., and B.T.P. of their constitutionally protected rights, Plaintiffs suffered general and
4 special damages and are entitled to relief pursuant to 42 U.S.C. § 1983.

5 **VII. DAMAGES**

6 44. As a direct and proximate result of Defendant's fault, wrongful acts, and
7 omissions, Charles Cox, Judith Cox, C.J.P., and B.T.P. have suffered severe and permanent
8 harm, entitling Plaintiffs to recover special and general damages.

9 45. As a direct and proximate result of Defendant's fault and wrongful acts and
10 omissions, as set forth herein, Plaintiffs suffered economic loss by reason of the deaths of C.J.P.
11 and B.T.P.

12 46. As a direct and proximate result of Defendant's fault and wrongful acts and
13 omissions, as set forth herein, Plaintiffs sustained damages pursuant to RCW 4.20.010,
14 4.20.020, 4.20.046, and 4.20.060.

15 47. As a direct and proximate result of Defendant's fault and wrongful acts and
16 omissions, C.J.P. and B.T.P. suffered extreme conscious pain and suffering and injuries.

17 48. As a direct and proximate result of Defendant's fault and wrongful acts and
18 omissions, as set forth herein, Defendant violated the Constitutional rights of C.J.P. and B.T.P.
19 not to be deprived of life without due process of the law and, as such, C.J.P. and B.T.P. suffered
20 severe mental, physical, and emotional pain.

21 49. As a direct and proximate result of Defendant's fault and wrongful acts and
22 omissions, as set forth herein, Defendant violated the Constitutional rights of Charles Cox and
23 Judith Cox to enjoy the continued society and companionship of their grandchildren and, as
24